



# ARIZONA

## REAL ESTATE BULLETIN

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October  
2001

### Many changes to Commissioner's Rules in the works

A blue ribbon committee appointed by Commissioner Holt has been meeting for several months to develop guidelines for professional conduct. The result is a draft of changes to the Commissioner's Rules.

We are soliciting comments and suggestions so that the interests and concerns of real estate professionals can be considered before continuing with the formal rulemaking process.

As you read this draft, note that new language is ALL CAPS and deleted text is ~~struck through~~.

Please send your comments to:  
Commissioner Jerry Holt  
Arizona Department of Real Estate  
2910 North 44th Street, Ste 100  
Phoenix, AZ 85018

The deadline for this 30-day informal comment period is October 22, 2001. Please forward your input timely so that it can receive consideration by the Committee.

Here are the proposed changes:

#### Article 1. General Provisions

##### R4-28-101. Definitions

In addition to the definitions listed in A.R.S. § 32-2101 the following terms apply to this Chapter:

1 – 8 No change.

9. "IMMEDIATE FAMILY" MEANS THE LICENSEE'S SPOUSE, AND THE SIBLINGS, PARENTS, GRANDPARENTS, CHILDREN AND GRANDCHILDREN OF THE LICENSEE OR spouse. (renumber)

#### Article 7. Compensation

##### R4-28-701. Compensation Sharing Disclosure

A. A real estate broker shall disclose to all the parties in the transaction, in writing before *close of escrow* CLOSING, the name of each employing broker WHO REPRESENTS A PARTY TO THE TRANSACTION AND WHO WILL RECEIVE *receiving* compensation from the transaction.

#### Article 8. Documents

##### R4-28-802. Conveyance Documents

A. Upon execution of any transaction document ~~prescribed pursuant to A.R.S. Title 32, Chapter 20,~~

*Continued on page 2*

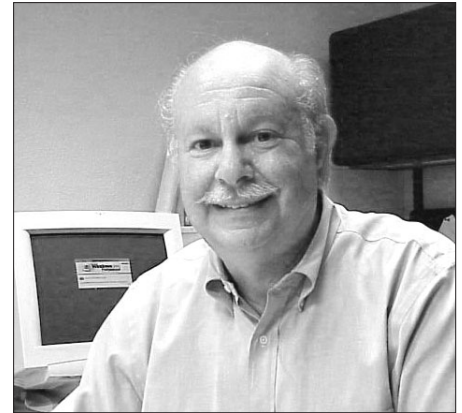
### Ira Feldman is new director of Administrative Actions Division

Ira Feldman has been named Director of the Department's Administrative Actions Division replacing Vernon Penner who resigned August 27.

The Division works with the Attorney General's Office in preparing disciplinary actions, administering the Real Estate Recovery Fund, and ensuring compliance with Commissioner's Orders and Consent Orders.

"We are extremely fortunate that Ira chose to join the Department," said Commissioner Jerry Holt. "His experience as an attorney is a valuable asset."

Mr. Feldman was Assistant General Counsel, Department Director and Senior Counsel for the McDonald's Corporation legal department in Oak Brook, Ill., prior to his retirement in 1999. Before joining McDonald's he was a staff attorney for Burrough's Corporation in Detroit, Mich. Earlier, he was an associate attorney with the Law Offices of Hertzberg & Weingarten in Detroit. He holds an Arizona real estate



*Ira Feldman*

salesperson's license.

He has been an active member of the Illinois Bar since 1978 and is an inactive member of the Michigan Bar.

Mr. Feldman was awarded a Bachelor of Arts-Economics degree from Michigan State University in 1968 and a Juris Doctor (*Cum Laude*) degree from Washington & Lee University Law School in 1972.

### Mary York retires after 20 years of service to the Department



*Mary York*

Mary York, Deputy Director of the Department's Tucson Office, has announced her retirement effective October 1.

Mary joined the Arizona Department of Transportation in December 1981, then moved to the Department of Real Estate in February 1982 as a Clerk Typist.

In March 1987 she was promoted to Real Estate Representative, and became Deputy Director in May 1999.

Bill Lucas, Director of Operations for the Tucson office, said "It has been a pleasure to work with Mary. Her dedication and unimpeachable work ethics have been a large part of the efficient functioning of the Tucson office. We will certainly miss her."

## Rule changes

*Continued from page 1*

a salesperson or broker shall, as soon as practical, deliver a legible copy of the signed document and final agreement to each party signing the document.

B. ~~In addition to any other obligation imposed by law or contract during the term of a listing agreement,~~ DURING THE TERM OF A LISTING AGREEMENT, a salesperson or broker shall promptly submit all offers to purchase or lease the listed property to the client. UPON RECEIVING PERMISSION OF THE SELLER OR LESSOR, A SALESPERSON OR BROKER ACTING ON BEHALF OF A SELLER OR LESSOR IS PERMITTED TO DISCLOSE TO ALL PROSPECTIVE BUYERS OR BUYERS' AGENTS THE EXISTENCE AND TERMS OF ONE OR MORE ADDITIONAL OFFERS ON A PROPERTY. The salesperson or broker shall submit all offers until the sale or lease is final or close of escrow and is not released from this duty by the client's acceptance of an offer unless the client instructs the salesperson or broker to cease submitting offers or unless otherwise provided in the listing agreement, lease or purchase contract. The salesperson or broker may voluntarily advise the seller or lessor of offers notwithstanding any limitations contained in the listing agreement and may submit offers after the listing agreement has terminated.

C. No change

### **Article 11. Professional Conduct**

#### **R4-28-1101. Duties to Client**

A. through D. No change.

E. A salesperson or broker shall not act as a *principal*, directly or indirectly, in a transaction without informing the other parties in the transaction, in writing and before any binding agreement, that the SALESPERSON OR BROKER HAS A PRESENT, PROSPECTIVE OR CONTEMPLATED INTEREST OR CONFLICT IN THE TRANSACTION, INCLUDING THAT THE:

1. Salesperson or broker has a license and is acting as a principal.
2. PURCHASER OR SELLER IS A MEMBER OF THE LICENSEE'S IMMEDIATE FAMILY.
3. PURCHASER OR SELLER IS THE LICENSEE'S EMPLOYING BROKER, OWNS OR IS EMPLOYED BY THE LICENSEE'S EMPLOYING BROKER.
4. SALESPERSON OR BROKER MAY HAVE A FINANCIAL INTEREST IN THE TRANSACTION IN ADDITION TO THE RECEIPT OF COMPENSA-

TION FOR THE SALESPERSON'S OR BROKER'S REAL ESTATE RELATED SERVICES.

F. A licensee shall not accept compensation from or represent both parties to a transaction without the prior written consent of both parties.

G. A licensee shall not accept ~~any compensation, rebates, or profit for transactions made on behalf of a client,~~ PROFIT INCLUDING REBATES OR OTHER CONSIDERATION, DIRECTLY OR INDIRECTLY, FOR ANY GOODS OR SERVICES PROVIDED TO A PERSON THAT ARE RELATED TO OR RESULTING FROM A CURRENT OR PROSPECTIVE REAL ESTATE TRANSACTION, WITHOUT THE PERSON'S WRITTEN CONSENT OR ACKNOWLEDGEMENT PRIOR TO MAKING THE REFERRAL. THIS REQUIREMENT DOES NOT APPLY TO COMPENSATION PAID TO A REAL ESTATE BROKER BY A REAL ESTATE BROKER WHO REPRESENTS A PARTY IN THE TRANSACTION.

H. THE SERVICES THAT A LICENSEE PROVIDES TO CLIENTS AND CUSTOMERS SHALL CONFORM TO THE STANDARDS OF PRACTICE AND COMPETENCE THAT ARE REASONABLY EXPECTED IN THE SPECIFIC REAL ESTATE DISCIPLINE IN WHICH THE LICENSEE ENGAGES. A LICENSEE SHALL NOT UNDERTAKE TO PROVIDE SPECIALIZED PROFESSIONAL SERVICES CONCERNING A TYPE OF PROPERTY OR SERVICE THAT IS OUTSIDE THE LICENSEE'S FIELD OF COMPETENCE UNLESS THE LICENSEE ENGAGES THE ASSISTANCE OF A PERSON WHO IS COMPETENT ON SUCH TYPE OF PROPERTY OR SERVICE, OR UNLESS THE LICENSEE'S LACK OF EXPERTISE IS FIRST DISCLOSED TO THE CLIENT IN WRITING.

I. A LICENSEE SHALL BE OBLIGATED TO EXERCISE REASONABLE CARE IN OBTAINING AND COMMUNICATING INFORMATION THAT IS MATERIAL TO THE CLIENT'S INTERESTS AND RELEVANT TO THE CONTEMPLATED TRANSACTION. HOWEVER, AN AGENT DOES NOT HAVE THE OBLIGATION TO HAVE EXPERTISE IN SUBJECT AREAS OTHER THAN THOSE REQUIRED BY THE HOLDING OF A LICENSE.

J. A LICENSEE SHALL NOT PERMIT OCCUPANCY IN A PERSON'S REAL PROPERTY TO A THIRD PARTY WITHOUT WRITTEN AUTHORIZATION BY THE PERSON.

K. A LICENSEE SHALL NOT DELIVER POSSESSION OF A PROPERTY PRIOR TO THE CLOSING UNLESS EXPRESSLY SO INSTRUCTED

BY THE OWNER OF THE INTEREST BEING TRANSFERRED.

L. A LICENSEE SHALL RECOMMEND TO THE CLIENT IN A TRANSACTION THAT THE CLIENT SEEK COUNSEL REGARDING THE CONSEQUENCES OF A PRE- OR POST-POSSESSION.

#### **R4-28-1103. BROKER SUPERVISION AND CONTROL**

A. A BROKER SHALL EXERCISE REASONABLE SUPERVISION AND CONTROL OVER THE ACTIVITIES OF REAL ESTATE LICENSEES AND OTHERS IN THE EMPLOY OF THE BROKER. REASONABLE SUPERVISION AND CONTROL INCLUDES, AS APPROPRIATE, THE ESTABLISHMENT OF POLICIES, RULES, PROCEDURES AND SYSTEMS TO REVIEW, OVERSEE, INSPECT AND MANAGE:

1. TRANSACTIONS REQUIRING A REAL ESTATE LICENSE.
  2. DOCUMENTS THAT MAY HAVE A MATERIAL EFFECT UPON THE RIGHTS OR OBLIGATIONS OF A PARTY TO THE TRANSACTION.
  3. FILING, STORAGE AND MAINTENANCE OF SUCH DOCUMENTS.
  4. THE HANDLING OF TRUST FUNDS.
  5. ADVERTISING AND MARKETING BY THE BROKER AND THE BROKER'S AGENTS.
  6. FAMILIARIZING SALESPERSONS AND ASSOCIATE BROKERS WITH THE REQUIREMENTS OF FEDERAL AND STATE LAWS RELATING TO THE PROHIBITION OF DISCRIMINATION.
  7. THE USE OF EMPLOYMENT AND DISCLOSURE FORMS AND CONTRACTS.
  8. THE DELEGATION OF AUTHORITY TO OTHERS TO ACT ON BEHALF OF THE BROKER.
  9. THE USE OF UNLICENSED ASSISTANTS BY THE AGENTS OF THE BROKER.
- B. A BROKER SHALL ESTABLISH A SYSTEM FOR MONITORING COMPLIANCE WITH THE BROKER'S POLICIES, RULES, PROCEDURES AND SYSTEMS. A BROKER MAY USE THE SERVICES OF EMPLOYEES TO ASSIST IN ADMINISTERING THE PROVISIONS OF THIS SECTION SO LONG AS THE BROKER DOES NOT RELINQUISH OVERALL RESPONSIBILITY FOR SUPERVISION AND CONTROL OF THE ACTS OF EMPLOYEES OF THE BROKER.
- C. AN EMPLOYEE SUBJECT TO THIS SECTION INCLUDES ANY SALESPERSON, ASSOCIATE BROKER OR UNLICENSED PERSON UNDER THE DIRECT SUPERVISION OF THE BROKER.

## Department proposes changes to real estate statutes

The Department will propose several changes to real estate statutes during the 2002 Legislative session. Additional changes may be proposed before the end of the year.

We would appreciate written or oral comments by November 1, 2001. That will allow us time to make changes and

satisfy our deadlines.

Please direct your comments to Commissioner Holt or Roy Tanney by telephone, mail or email. You may reach the Commissioner at (602) 468-1414, extension 135. You may reach Roy at extension 410.

Our mailing address is:

ADRE

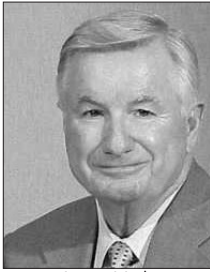
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Our email addresses are  
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Note that new language is in CAPITAL LETTERS; deleted language is

*Continued on page 8*



Jerry Holt

# News From The Commissioner

## Rule and statute changes are in the works

A major change in the way we run the Department seemed like a good idea. It wasn't. I'm referring to a change in A.R.S. § 32-2135 in 1997 that permitted licensees to simply list the continuing education courses they attended for license renewal on the renewal form rather than submitting the school certificates.

Many licensees don't read the renewal form carefully, and either show up at our offices to renew their license without the required list of continuing education courses, or submit a renewal by mail without the required information.

We have also determined that it takes more time for our people to process a renewal application -- and that means you have to wait longer to be served at our front counter -- than it does when licensees are required to produce school certificates.

We're proposing a change in A.R.S. § 32-2135 that would again require licensees to attach a photocopy of continuing education certificates with a renewal application. You may read the entire text of the proposed changes in the story beginning on page 2.

Another interesting change in the statutes would allow the Department's Administrative Actions Division to issue a "letter of concern" to a licensee who has committed a violation of real estate statutes or Commissioner's

Rules, but when the violation is not serious enough for the Department to consider a consent order or administrative hearing.

As stated in the article beginning on page 1, a blue ribbon committee I formed is proposing rule changes as well. Most important among these are rules pertaining to professional conduct and procedure for "reasonable supervision" which an employing broker must exercise over licensed employees.

The present rule regarding supervision is vague. The revised rule clearly describes policies, rules, procedures and systems that comprise "reasonable supervision."

The complete text of the proposed changes may be found in the article on page 1.

A copy of the proposed legislative package and the proposed rule changes has been sent to some 150 "stakeholders" for review and comment. I invite your comments on the proposed changes.

## Fabricated CE hours result in suspension

On page 5 of this issue of the Bulletin, you'll read about a Tucson real estate salesperson who put off attending continuing education classes until the last minute in May, 2000, then submitted a renewal application listing classes she did not attend. She was selected at random for an audit of CE hours in May 2001, and could not produce the required continuing education

certificates. The Department has suspended her license pending an administrative hearing.

A better plan would have been to stop practicing real estate until she could attend the required classes then submit a late renewal and pay a \$10 penalty.

**"We will not tire,  
we will not falter,  
and we will not  
fail."**

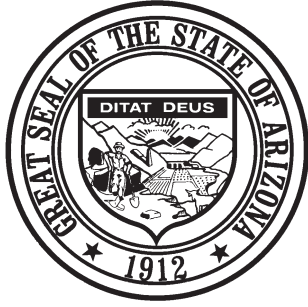
These words spoken by President Bush in his speech to the nation following the terrorist attacks on the World Trade Center and the Pentagon are, to me, some of the most inspiring I've ever heard.

Surely, there will be sacrifices and inconveniences as our national leadership and our military chase down and eliminate those responsible, directly and indirectly, for these unthinkable horrific acts.

I pray we will all "stand fast in the ranks" to support our President in his effort to eradicate this menace to society.

It will not suffice to have real estate practitioners everywhere do any less than to give the President a full measure of support as he sets the course to victory! At the very least, I implore you to fly the American flag and keep it flying, now and forever.

God bless America.



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### Don't neglect to list continuing education hours when submitting your license renewal

A distressing number of licensees are submitting license renewal applications without attaching a list of continuing education credits as the renewal form requires. Applications submitted without the list are rejected.

If you submit your application in person only a day or two before your license expires, rejection means you may be out of business until you can produce the list of credits. If renewing by mail at the last minute, you could be out of business until the rejected form is returned to you through the mail and you resubmit it, and that could take several days.

Attach a separate sheet to your renewal application listing the approved continuing education (CE) courses you have completed for renewal. The real estate school you attend may make a list of classes you have attended at the school available to you.

You must include the following information for each CE course:

- Date(s) of class
- School name
- Course title
- ADRE Course No.
- Category of credit
- Number of credit hours
- Write your name and license number on the list

Twenty-four hours of continuing education are required. A minimum of three hours in each of the following categories is mandatory:

- Agency Law
- Commissioner's Standards
- Contract Law
- Fair Housing Law
- Real Estate Legal Issues.

The remaining hours can be in any of the mandatory topics or in the General Real Estate category. Retain CE certificates used for renewal for five years; you may be required to provide photocopies if asked to do so by the Department. No CE hours are required to renew an entity license, or to renew a cemetery or membership-camping salesperson or broker license.

Active-status designated brokers (this includes self-employed brokers), must attend a Broker Management Clinic once during every two-year license period. You must list a Broker Management Clinic among your list of continuing education courses. Attendance satisfies the requirement for three hours of CE in the category of Commissioner's Standards.

**The mission of the  
Arizona Department of Real Estate  
is to safeguard and promote the public interest  
through timely and capable assistance,  
fair and balanced regulation,  
and sound and effective education.**



# ADMINISTRATIVE ACTIONS

## SUMMARY SUSPENSION

### 01A-110

**Blanca A. Guerra**  
**Tucson**

DATE OF ORDER: August 29, 2001

On May 14, 2001, while conducting routine audits of continuing education certificates submitted by licensees with their renewal applications, the Department sent a letter to Respondent asking her to provide the Department with copies of the continuing education certificates she listed on her May 2000 renewal application. No response was received.

A second written request was sent to Respondent on June 14, 2001. A copy of each letter was sent to Respondent's employing broker.

On June 16, 2001, Respondent submitted certificates for 16 hours of continuing education. She admitted she "did not read the specific amount of renewal hours needed and took the mandatory classes at the last minute." FINDING that Respondent has committed an act in violation of A.R.S. § 32-2153 and A.A.C. R4-28-402, and pursuant to A.R.S. § 32-2157(B), the public welfare or safety imperatively requires emergency action in this matter.

IT IS ORDERED that Respondent's real salesperson's license is hereby summarily suspended.

Respondent may request an administrative hearing to contest this action.

## LICENSE APPLICATIONS DENIED

### 01A-030

**Rebecca Kay Wagner**  
**Chino Valley**

DATE OF ORDER: August 16, 2001

FINDINGS OF FACT: In her February 28, 2001 application for renewal of her real estate salesperson's license, Petitioner disclosed a January 11, 2000 felony conviction in Yavapai County Superior Court for possession of marijuana. The Court suspended imposition of sentence and placed Petitioner on supervised probation for three years.

Because the Department cannot issue a license to or renew a license for a person who is on probation for a felony [A.R.S. § 32-2130(E)], Petitioner was advised that the Department intended to deny her application. Petitioner requested an administrative hearing, but did not appear at the hearing.

VIOLATIONS: Petitioner has violated or disregarded provisions of A.R.S. Title 32, Chapter 20, in that she has been convicted of a felony within the meaning of A.R.S. § 32-2153(B)(2). Petitioner's criminal behavior in 1999 shows she is not a person of honesty, truthfulness and good character within the meaning of A.R.S. § 32-2153(B)(7).

DISPOSITION: Petitioner's renewal application denied.

### 01A-027

**Robert Allen Iverson**  
**Phoenix**

DATE OF ORDER: August 28, 2001

FINDINGS OF FACT: The Department notified Petitioner that it intended to deny his application for a real estate salesperson's license because of an alleged prior felony conviction involving moral turpitude, dishonest dealings, failure to demonstrate good character or fraud under A.R.S. § 32-2153(B)(2), (5), (7) and (10). Petitioner requested an administrative hearing, but did not appear at the hearing.

DISPOSITION: Petitioner's application for a real estate salesperson's license is denied.

### 01A-054

**Pamela C. Spindle**  
**Chandler**

DATE OF ORDER: September 19, 2001

FINDINGS OF FACT: In her April 19, 2001 application for a real estate salesperson's license, Petitioner disclosed 1998 convictions for felony theft and DUI. The Department notified Petitioner that it intended to deny her application. Petitioner requested an administrative hearing, but did not appear at the hearing.

DISPOSITION: Petitioner's application for a real estate salesperson's license is denied.

## CONSENT ORDERS

### 01A-019

**James D. Warren**  
**Phoenix**

DATE OF ORDER: JULY 25, 2001

FINDINGS OF FACT: Respondent was originally issued a real estate salesperson's license in October 1994. His license expires on October 31, 2002.

On July 23, 1998, Kathy Brown and Robert Newnum executed a Residential Resale Real Estate Purchase Contract to purchase a home at 2418 E. Pinchot Ave. in Phoenix. Respondent was the owner and seller of the property.

On July 24, 1998, Warren provided Newnum with a Seller's Property Disclosure Statement (SPDS) disclosing that there had been termite infestation and that the property "has been treated/with one-year warranty." Warren further disclosed that the home had been treated by America Termite and Pest Control with six months remaining on the warranty. Question 43 on the SPDS asks "Has there been any damage to the property or any structure on the property?" Warren answered "No" to the question.

On November 3, 1998, William Christenson of Palos Verdes Engineering conducted a home inspection of the property. The report revealed that there was severe damage to the roof, rafters, ceiling joists, kickers, sheeting boards and top plates of interior walls; and the amount of extent of the damage indicated the property had been infested with termites for a

long time.

In June 1999, Warren informed the Professional Standards Committee of the Phoenix Association of Realtors® that "There was evidence of termite damage when I purchased the property. The areas of the damage that I was aware of had been fixed. Example, obvious damage around the door jams. I removed the damaged wood and replaced with new, and repaired those areas. I had no knowledge of any extensive structural damage for I never had a structural inspection of the property. I had no reason to believe that it was necessary."

On June 30, 2000, Warren submitted a statement to the Arizona Department of Real Estate that "I removed, replaced or repaired any visible signs of termite damage which I observed...There was no deliberate non-disclosure of any kind."

VIOLATIONS: Respondent pursued a course of misrepresentation or made false promises, either directly or through others, when acting in the role of a licensee and a principal in a transaction in violation of A.R.S. § 32-2153(A)(1). He made substantial misrepresentations in violation of A.R.S. § 32-2153(B)(3).

DISPOSITION: Respondent's real estate salesperson's license is suspended for 12 months, effective October 1, 2001. Reinstatement of Respondent's license shall be by a provisional license with a practice monitor for the first six months of reinstatement.

Prior to reinstatement, Respondent shall complete four hours of Agency Law continuing education, four hours of Contract Law education and four hours of Commissioner's Standards education in addition to hours required for reinstatement.

### 01A-052

**Raul R. Martinez**  
**Gilbert**

DATE OF ORDER: July 26, 2001

FINDINGS OF FACT: In his April 23, 2001 application for a real estate salesperson's license, Petitioner disclosed a 1989 felony conviction for possession of narcotic drugs and a 1994 conviction for DUI.

VIOLATIONS: Petitioner has been convicted of a felony in violation of A.R.S. § 32-2153(B)(2). He has not shown he is a person of honesty, truthfulness and good character in violation of A.R.S. § 32-2153(B)(7).

DISPOSITION: The Commissioner shall issue Petitioner a two-year provisional real estate salesperson's license. Petitioner shall comply with the following terms and conditions:

- Petitioner shall abstain completely from the use of any alcohol, illegal drugs or controlled substances unless taken under a valid prescription and orders of a medical doctor;
- Petitioner shall submit to body fluid tests randomly drawn, not exceeding two per month, at the request of the Department's Compliance Officer.

*Continued on page 6*

*Continued from page 5*

c. Within 10 days of employing Petitioner, each employing broker shall file with the compliance officer a signed statement certifying that the broker has received a copy of this Consent Order and agrees to act as Petitioner's practice monitor. The practice monitor shall submit bimonthly written reports to the Compliance Officer attesting to Petitioner's workload and the quality of his services and client relationships. The practice monitor shall report any behavior or conduct that violates real estate statutes or rules.

#### **01A-043**

**Jess A. Hardenbrook  
Clarkdale**

DATE OF ORDER: August 2, 2001

FINDINGS OF FACT: In his February 18, 2000 application for a real estate salesperson's license, Respondent failed to disclose a 1998 conviction for theft in Clarkdale Magistrate Court, and a 1998 conviction in Sedona Municipal Court for using a false ID to obtain liquor and for underage possession of alcohol. VIOLATIONS: Respondent's failure to disclosed the convictions constitutes procuring or attempting to procure a license by filing a license application that was false or misleading, within the meaning of A.R.S. § 32-2153(B)(1). Respondent was convicted of the crime of theft, within the meaning of A.R.S. § 32-2153(B)(2). His conduct does not show he is a person of honesty, truthfulness or good character within the meaning of A.R.S. § 32-2153(B)(7).

DISPOSITION: Respondent's real estate salesperson's license shall be suspended for 180 days, to begin upon entry of this order. Respondent to pay a civil penalty in the amount of \$500. Respondent shall attend 6 hours of approved continuing education classes in the categories of Commissioner's Standards and Real Estate Legal Issues.

#### **01A-034**

**Thomas Burchfield  
Golden Valley**

DATE OF ORDER: August 16, 2001

FINDINGS OF FACT: On May 25, 2000, Respondent listed for sale vacant property owned by Herbert Hirschmann in Golden Valley. On July 6, 2000, Respondent prepared a Vacant Land Purchase Contract by which Charles Smith agreed to purchase the property. Burchfield identified himself as agent for both Hirschmann and Smith in the purchase contract.

In the contract, at the direction of his broker, Jeri Feneis, he identified the property as having A-R/1A zoning. The property is zoned A-R/2A. A-R/1A represents zoning of Agricultural-Residential/One Acre Minimum Lot Size; A-R/2A represents two-acre minimum lot size.

Smith claims he told Burchfield he wanted a lot that he could split in two, and that he planned to place a mobile home on each lot, one as his personal residence and the other as rental property.

After purchasing the property, Smith learned from Mohave County that the proper-

ty was zoned A-R/2A and was only 1.93 acres in size due to corner-lot street easements.

Smith is unable to split the lot and may place only one single-family dwelling on the property.

Burchfield attests that Smith told him that he intended to put Smith's personal home on the property, and that Smith had the opportunity to inspect the property.

VIOLATIONS: Burchfield's representation of the incorrect zoning, failure to disclose the correct zoning and failure to verify his seller-client's representations constitute a breach of his fiduciary duty to his clients within the meaning of A.A.C. R4-28-1101(A). He disregarded or violated provisions of the Commissioner's Rules, within the meaning of A.R.S. § 32-2153(A)(3). His conduct constitutes negligence in performing the duties for which a salesperson's license is required, within the meaning of A.R.S. § 32-2153(A)(22). DISPOSITION: Burchfield's salesperson's license shall be suspended for 30 days beginning September 17, 2001. He shall pay a civil penalty in the amount of \$750.

He shall attend nine hours of continuing education classes in the category of Commissioner's Standards, Contract Law and Subdivisions within 90 days of entry of this Order.

#### **01A-080**

**Deborah A. McKee  
Flagstaff**

DATE OF ORDER: August 21, 2001

FINDINGS OF FACT: In her June 2001 application for a real estate salesperson's license, Petitioner disclosed a 1997 felony theft conviction in Coconino County Justice Court. The court ordered Petitioner to perform community service, pay court costs, make restitution, and sentenced her to two years' probation. The court terminated her probation on October 20, 2000.

VIOLATIONS: Petitioner has been convicted of the crime of theft, in violation of A.R.S. § 32-2153(B)(2). Petitioner failed to demonstrate she is a person of good character within the meaning of A.R.S. § 32-2153(B)(7). Petitioner violated Arizona state laws that involve theft, in violation of A.R.S. § 32-2153(B)(10). DISPOSITION: Petitioner shall be issued a two-year provisional license provided she satisfies the following conditions:

Each designated broker who employs Petitioner shall file with the Compliance Officer a signed statement certifying that the broker has received a copy of this Order and agrees to act as Petitioner's practice monitor. The practice monitor shall submit written reports to the Compliance Officer every two months which attest to Petitioner's workload as well as the quality of her services and client relationships. The practice monitor shall report any behavior or conduct which violates real estate statutes or rules.

Petitioner shall not be a signatory on, or have access to, any trust accounts or any other accounts which contain client funds.

Prior to license activation, Petitioner shall post a surety bond in the amount of \$20,000.

Should the surety company issuing the bond cancel it for any reason, Petitioner shall immediately provide evidence of a new bond to the Department.

#### **01A-058**

**Armando M. Nuñez  
Phoenix**

DATE OF ORDER: August 27, 1002

FINDINGS OF FACT: In his May 4, 2001 application for a real estate salesperson's license, Petitioner disclosed 1991 convictions for conspiracy to sell marijuana, a class 2 felony, and illegal control of enterprise, a class 3 felony. Petitioner was sentenced to six years in prison. VIOLATIONS: Petitioner has been convicted of a felony in violation of A.R.S. § 32-2153(B)(2). He has been guilty of conduct which constitutes dishonest dealings, in violation of A.R.S. § 32-2153(B)(5). He failed to demonstrate that he is a person of good character within the meaning of A.R.S. § 32-2153(B)(7). He has violated state laws that involve dishonest dealings, in violation of A.R.S. § 32-2153(B)(10).

DISPOSITION: The Commissioner shall issue Petitioner a two-year provisional real estate salesperson's license effective upon entry of this Order. Petitioner shall comply with the following terms and conditions during all periods of active and inactive status.

Each designated broker who wishes to employ Petitioner shall file with the Department's Compliance Officer a signed statement certifying that the broker has received and read a copy of this order and agrees to act as Petitioner's practice monitor. The practice monitor shall submit quarterly written reports to the Department's Compliance Officer which attest to Petitioner's workload as well as the quality of her services and client relationships. The practice monitor shall be responsible for reporting any behavior or conduct which violates real estate statutes or rules.

Petitioner shall post a surety bond in the amount of \$5,000.

#### **01A-070**

**Manuela Ann Andrews aka Nellie Andrews  
Yuma**

DATE OF ORDER: August 28, 2001

FINDINGS OF FACT: Respondent was issued a real estate salesperson's license in June 1993. At all times material to this matter Respondent was employed by By Owner Real Estate. The designated broker of By Owner Real Estate is Ned Johnson.

On July 7, 2000, Respondent prepared a V.A. Offer to Purchase and Contract of Sale on behalf of Jose and Judith Serrano for property located in Yuma. The property was not a V.A. property.

Jose Serrano gave Respondent an escrow deposit in the amount of \$500 cash. Respondent also accepted \$260 from the Serranos "to clean up their credit." In addition, she asked for a personal loan from the Serranos in the amount of \$200.

The Serranos' credit history was not reviewed by anyone. Respondent states she gave a money order to the credit company

but cannot provide a receipt for the money. She cannot produce escrow or loan documents for the purchase of a home for the Serranos.

On December 15, 2000, the Serranos informed designated broker Ned Johnson of the transaction. He refunded the \$500 escrow deposit.

On February 2, 2001, Johnson severed Respondent's real estate license for violating real estate laws. He states that he prohibits agents in his employ from accepting cash from a client and that he warned Respondent not to do so.

As an aggravating circumstance, Respondent entered into a Consent Order in April 1999 in which her real estate salesperson's license was suspended for one year for misrepresentation and dishonest dealings. VIOLATIONS: Respondent pursued a course of misrepresentation or made false promises in violation of A.R.S. § 32-2153(A)(1). She disregarded or violations of Arizona Revised Statutes, Title 32, Chapter 20 and the Commissioner's Rules in violation of A.R.S. § 32-2153(A)(3).

She failed, within a reasonable time, to account for or to remit monies coming into her possession which belonged to others, in violation of A.R.S. § 32-2153(A)(9). She failed to keep an escrow or trust account or other records of funds deposited with the licensee relating to a real estate transaction, in violation of A.R.S. § 32-2153(A)(15).

She commingled money or other property of her client with that of her own or converted that money or property to herself or another, in violation of A.R.S. § 32-2153(A)(16). She failed to maintain a complete record of each transaction which comes within the provisions of Arizona Revised Statutes, Title 32, Chapter 20, in violation of A.R.S. § 32-2153(B)(7).

She has not shown she is a person of honesty, truthfulness and good character, in violation of A.R.S. § 32-2153(B)(7). She violated state laws and rules that involve substantial misrepresentation and failed to deal fairly with a party to a transaction that materially and adversely affected the transaction, in violation of A.R.S. § 32-2153(B)(10).

She failed to deliver a legible copy of signed documents and final agreements to each party signing the document as required by A.A.C. R4-28-802(B). She breached her fiduciary duty to her client and did not protect and promote the client's interest as required by A.A.C. R4-28-1101(A).

DISPOSITION: Respondent's real estate salesperson's license is revoked.

#### 01A-082

**Timothy Edward Cannon  
Phoenix**

DATE OF ORDER: SEPTEMBER 10, 2001

FINDINGS OF FACT: In his June 11, 2001 application for a real estate salesperson's license, Petitioner disclosed a 1990 conviction for DUI, a 1993 conviction for Unauthorized Use of a Vehicle and a 1995 conviction for Receiving Stolen Property.

VIOLATIONS: Petitioner has failed to demonstrate that he is a person of good character

within the meaning of A.R.S. § 32-2153(B)(7). DISPOSITION: The Commissioner shall issue Petitioner a two-year provisional real estate salesperson's license subject to the following terms and conditions during all periods of active and inactive status:

a. Petitioner shall abstain completely from the use of any alcohol, illegal drugs or controlled substances unless taken under a valid prescription and orders of a medical doctor.

b. Petitioner shall submit to body fluid tests randomly drawn, not exceeding two per month, at the request of the Department's Compliance Officer.

c. Prior to Petitioner's license activation, each designated broker shall file with the Department's Compliance Officer a signed statement certifying that the broker has received and read a copy of this order and agrees to act as Petitioner's practice monitor. The practice monitor shall submit quarterly written reports to the Department's Compliance Officer which attest to Petitioner's workload as well as the quality of her services and client relationships. The practice monitor shall be responsible for reporting any behavior or conduct which violates real estate statutes or rules.

#### 01A-034

**Jeri Feneis dba IRP-Mohave County aka  
International Realty Plus Mohave County  
Golden Valley**

DATE OF ORDER: September 10, 2001

FINDINGS OF FACT: Feneis was issued an original real estate broker's license on September 16, 1992. He is currently, and was at all time material to this matter, licensed as a self-employed broker, doing business as International Realty Plus - Mohave County.

Thomas Burchfield was issued an original real estate salesperson's license on July 21, 1998. He is currently, and was at all times material to this matter, employed by Feneis.

On May 25, 2000, Burchfield listed for sale vacant property owned by Herbert Hirschmann in Golden Valley. On July 6, 2000, Burchfield prepared a Vacant Land Purchase Contract by which Charles Smith agreed to purchase the property. Burchfield identified himself as agent for both Hirschmann and Smith in the purchase contract.

On page one of the contract, Burchfield, at the direction of his broker, Feneis, identified the property as having AR-1 zoning. The property is zoned A-R/2A. A-R/1A represents zoning of agricultural-residential/one-acre minimum lot size. A-R/2A represents zoning of agricultural-residential/two-acre minimum lot size.

The Seller's Property Disclosure Statement prepared by Hirschmann represents the lot as "2+ acres."

Smith claims he told Burchfield he wanted a lot that he could split into two lots then place a mobile home on each lot. He planned to live in one home and lease the other to an unrelated tenant.

After purchasing the property, Smith learned from Mohave County that the property was zoned A-R/2A and was only 1.93 acres due to corner lot street easements.

Smith is unable to split the lot. He may

place one single-family dwelling on the property.

Feneis attests that although the property is zoned as A-R/2A, it should be zoned A-R/1A because the lot is not, in fact, a minimum of two acres, and hence A-R/1A zoning more accurately reflects the true size of the lot.

VIOLATIONS: Feneis' instruction to Burchfield that subsequently led to Burchfield's representation of the incorrect zoning code and failure to disclose the correct zoning code constituted negligence in performing the duties for which a broker's license is required, within the meaning of A.R.S. § 32-2153(A)(22).

Feneis disregarded or violated provisions of the Commissioner's Rules, within the meaning of A.R.S. § 32-2153(A)(3).

DISPOSITION: Feneis' broker's license shall be suspended for 30 days beginning September 17, 2001. He shall pay a civil penalty in the amount of \$750.

He shall attend nine hours of continuing education classes, in addition to hours required for license renewal, in the categories of Commissioner's Standards, Contract Law and Subdivisions.

#### 00A-100

**Kevin R. Cronin; Realty Experts, Inc.  
Fountain Hills**

DATE OF ORDER: September 11, 2001

FINDINGS OF FACT: Realty Experts is and was at all material times an Arizona corporation licensed as a real estate broker in Arizona. Its license is due to expire on December 31, 2001.

Cronin is and was at all material times licensed as a real estate broker in Arizona. His license is due to expire on August 31, 2002. Cronin has been the designated broker of Realty Experts since April 6, 1998.

Jimmie Munoz was issued an original real estate salesperson's license on or about October 28, 1997. Munoz' license expired October 31, 1999. At all material times, Munoz was employed by Realty Experts. From November 1, 1999 through approximately December 10, 1999, while employed by Realty Experts, Munoz acted in the capacity of a real estate salesperson, within the meaning of A.R.S. § 32-2122, without being licensed to do so. Munoz submitted an untimely application for renewal to the Department on December 10, 1999. That application was processed for renewal by the Department.

Richard Snapp was issued an original real estate salesperson's license on or about April 9, 1998. Snapp's license expired April 30, 2000. At all material times, Snapp was employed by Realty Experts. From May 1, 2000 through approximately June 5, 2000, while employed by Realty Experts, Snapp acted in the capacity of a real estate salesperson, within the meaning of A.R.S. § 32-2122, without being licensed to do so. Snapp submitted an untimely application for renewal to the Department on June 5, 2000. That application was processed for renewal by the Department.

Mark Thomas Kopchak was issued an original real estate salesperson's license on or

*Continued on page 8*



about July 1, 1994. Kopchak's license expired July 31, 2000. At all material times, Kopchak was employed by Realty Experts. From August 1, 2000 through approximately August 14, 2000, while employed by Realty Experts, Kopchak acted in the capacity of a real estate salesperson, within the meaning of A.R.S. § 32-2122, without being licensed to do so. Kopchak submitted an untimely application for renewal to the Department on August 15, 2000. That application was processed for renewal by the Department.

Felix Guzman was issued an original real estate salesperson's license on or about August 30, 1994. Guzman's license expired August 31, 2000. At all material times, Guzman was employed by Realty Experts. From September 1, 2000 through approximately September 7, 2000, while employed by Realty Experts, Guzman acted in the capacity of a real estate salesperson, within the meaning of A.R.S. § 32-2122, without being licensed to do so. Guzman submitted an untimely application

for renewal to the Department on September 7, 2000. That application was processed for renewal by the Department.

On or about April 5, 2000, Cronin submitted to the Department a copy of Realty Experts' written policy pertaining to license expirations, which presently remains in effect. That policy describes certain procedures for Realty Experts' branch office managers to take to prevent, monitor and/or properly process license expirations.

Cronin represents that he intended to cause his office manager, Annette Reed, and Realty Experts' branch managers to implement the policy. Cronin failed to ensure that the policy was implemented.

Upon submitting their untimely applications for renewal, Munoz, Snapp, Kopchak, and Guzman each disclosed that they had conducted activities for Realty Experts during the times that their respective licenses were expired.

Cronin represents that Guzman was the

only one of the salespersons identified herein who earned compensation while not being licensed.

**VIOLATIONS:** Realty Experts employed and paid compensation to salespersons who were not active licensees, in violation of A.R.S. § 32-2155(B). Realty Experts employed unlicensed salespersons, in violation of A.R.S. § 322153(A)(6).

Cronin was responsible for supervising salespersons and employees of Realty Experts within the course of their employment under A.A.C. R4-28-302(H). Cronin violated provisions of the Commissioner's Rules, in violation of A.R.S. § 322153(A)(3).

**DISPOSITION:** Respondents are jointly and severally liable for a civil penalty in the amount of \$ 1,000. Cronin shall attend nine hours of approved real estate continuing education classes in the categories of Real Estate Legal Issues, Commissioner's Standards, and a Broker Management Clinic.

## Statutes

*Continued from page 2*

~~strike through letters.~~

32-2101. Definitions

In this chapter, unless the context otherwise requires:

27. "INCOMPETENCE" MEANS A LACK OF BASIC REAL ESTATE KNOWLEDGE OR SKILL, OR FAILURE TO APPRECIATE THE PROBABLE CONSEQUENCES OF THE LICENSEE'S ACTION OR INACTION.

29. "LETTER OF CONCERN" MEANS AN ADVISORY LETTER TO NOTIFY A LICENSEE THAT, WHILE THE CONDUCT OR EVIDENCE DOES NOT WARRANT DISCIPLINARY ACTION, THE COMMISSIONER BELIEVES THAT THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND THAT CONTINUATION OF THE ACTIVITIES MAY RESULT IN DISCIPLINARY ACTION AGAINST THE LICENSEE

32-2107. Powers and duties of commissioner; compensation; administration of department; seal; revolving fund

D. A real estate department education revolving fund is established consisting of monies received from the sale of educational matter under subsection C of this section, LICENSING FEES COLLECTED FOR ORIGINAL AND RENEWAL APPLICATIONS OF REAL ESTATE SCHOOLS, COURSE APPROVALS AND INSTRUCTOR APPROVALS PURSUANT TO 32-2132 and grants of monies to be used in the production of educational products. Monies in the fund shall be used for the printing of a compilation

of real estate laws and rules and other educational publications and for such other educational efforts as the commissioner deems helpful and proper for the guidance and assistance of licensees and the public. The department shall establish the revolving fund as a separate account. The department shall make a full accounting of its use to the department of administration annually or as required by the department of administration. Expenditures from the fund and reimbursement to the fund shall be as prescribed by rules of the department of administration. Monies received in the real estate department education revolving fund are not subject to reversion. ~~except that all monies in the fund in excess of twenty five thousand dollars at the end of the fiscal year revert to the state general fund.~~

32-2124. Qualifications of licensees

J. An applicant for a real estate salesperson's or broker's license who currently holds at least an equivalent license in another state may be exempt from taking the national portion of the real estate examination if the applicant can demonstrate having previously passed a national examination, WITHIN THE PAST FIVE YEARS, that is satisfactorily similar to the one administered by the department.

32-2132. Fees

A. Except as provided in subsection D, the following fees shall be charged which shall not be refunded by the commissioner after issuance of a receipt for payment:

10. Change of name, and address AND LICENSE STATUS of licensee on records of the department, not more than twenty dollars.

17. ORIGINAL SCHOOL APPLICATION FEE, NOT LESS THAN SEVENTY-FIVE DOLLARS AND NOT MORE THAN ONE HUNDRED TWENTY-FIVE DOLLARS.

18. ORIGINAL COURSE APPROVAL FEE, NOT LESS THAN TEN DOLLARS AND NOT MORE THAN TWENTY DOLLARS.

19. ORIGINAL INSTRUCTOR APPROVAL FEE, NOT LESS THAN FORTY DOLLARS AND NOT MORE THAN SIXTY DOLLARS.

20. SCHOOL RENEWAL APPLICATION FEE, NOT LESS THAN SEVENTY-FIVE DOLLARS AND NOT MORE THAN ONE HUNDRED TWENTY-FIVE DOLLARS.

21. COURSE RENEWAL FEE, NOT LESS THAN TEN DOLLARS AND NOT MORE THAN TWENTY DOLLARS.

22. INSTRUCTOR RENEWAL FEE, NOT LESS THAN FORTY DOLLARS AND NOT MORE THAN SIXTY DOLLARS.

23. LICENSE HISTORY CERTIFICATION FEE, NOT LESS THAN TEN DOLLARS AND NOT MORE THAN FORTY DOLLARS.

32-2135. Real estate schools; courses of study; instructors; certification

B. Each approved school shall issue a certificate of real estate course attendance to each person who completes an approved prelicensure or continuing education course. An applicant for renewal of licensure as provided by section 32-2130 shall FILE WITH THE COMMISSIONER A COPY OF CERTIFICATES ISSUED BY THE SCHOOL SHOWING ~~certify to the commissioner that the applicant has attended~~ the number of hours of attendance and course of study required for renewal. ~~Each licensee shall keep in the licensee's possession for five years any certificate of course at-~~



tendance for a course that the licensee has certified to the commissioner under this subsection.

32-2136. Broker management clinic

C. An applicant for an original real estate broker's license shall attend a broker management clinic before activating the license. A broker shall attend a broker management clinic before becoming a designated broker, unless the broker has attended a broker management clinic during the PRECEDING TWENTY-THREE MONTHS ~~broker's current licensing period~~. All active designated real estate brokers shall attend a broker management clinic once during every two year licensing period after their initial attendance.

32-2153. Grounds for denial, suspension or revocation of licenses; ISSUANCE OF LETTER OF CONCERN; issuance of a provisional license; retention of jurisdiction by commissioner; definition

A. The commissioner may suspend or revoke a license, deny the issuance of a license, ISSUE A LETTER OF CONCERN TO A LICENSEE, issue a provisional license or deny the renewal or the right of renewal of a license issued under the provisions of this chapter if it appears that the holder or applicant, within five years immediately preceding, in the performance of or attempt to perform any acts authorized by the license or by this chapter, has:

B. The commissioner may suspend or revoke a license, deny the issuance of a license, ISSUE A LETTER OF CONCERN TO A LICENSEE, issue a provisional license or deny the renewal or the right of renewal of a license issued under the provisions of this chapter when it appears that the holder or applicant therefor has:

32-2181.02. Exempt sales and leases

~~B. The following are exempt from section 32-2181, subsection A and section 32-2183, subsection A:~~

~~2. The sale or lease of lots or parcels located in a single platted subdivision by a subdivider if:~~

~~(a) A public report has been issued pursuant to this article on the subdivision lots or parcels.~~

~~(b) The subdivision meets all current requirements otherwise required of a subdivision under this article.~~

~~(c) The method of sale or lease of lots or parcels meets all current requirements under this article.~~

~~(d) The lots or parcels are included on a recorded subdivision plat that is ap-~~

~~proved by a municipal or county government.~~

~~(e) All roads within the subdivision, all utilities to the lots or parcels being offered for sale or lease and all other required improvements within the subdivision, other than a residence to be built, are complete, paid for and free of any blanket encumbrances.~~

~~(f) The roads, utilities or other improvements are not complete, but the completion of all improvements is assured pursuant to section 32-2183, subsection D.~~

~~(g) Except for matters relating to ownership, there have been no material changes to the information set forth in the most recent public report issued for the subdivision lots that would require an amendment to the public report.~~

~~(h) No owner of a ten per cent or greater interest, subdivider, director, partner, agent, officer or developer of the subdivision has:~~

~~(i) Been convicted of a felony or any crime involving theft, dishonesty, violence against another person, fraud or real estate, regardless of whether the convictions were subsequently expunged.~~

~~(ii) Had a civil judgment entered against them in a case involving allegations of misrepresentation, fraud, breach of fiduciary duty, misappropriation, dishonesty or, where the subject matter involved real property, securities or investments.~~

~~(iii) Had a business or professional license, including a real estate license, denied, suspended or revoked or voluntarily surrendered a business or professional license during the course of an investigative or disciplinary proceeding or other disciplinary action taken in this state or any other state.~~

~~(i) The sale of the subdivided lands violates no laws or ordinances of any governmental authority.~~

~~(j) Before the buyer's or lessee's execution of a purchase contract or lease, the subdivider has provided the buyer or lessee with a copy of the most recent public report on the lot and has taken a receipt from the buyer for the copy.~~

~~(k) The subdivider has provided to the buyer or lessee, along with the public report, a signed statement that the subdivider has reviewed and is in compliance with the terms of the exemption provided in this paragraph.~~

~~(l) Before sale or lease, the subdivider has notified the commissioner, on a form provided by the department, of the subdivider's intent to sell or lease lots or~~

~~parcels pursuant to this paragraph. The notice shall include:~~

~~(i) The name, address and telephone number of the subdivider.~~

~~(ii) The name, address and telephone number of any real estate broker retained by the subdivider to make sales or leases of the lots.~~

~~(iii) The name and location of the subdivision.~~

~~(iv) The most recent subdivision public report reference number on the lots.~~

~~(v) The completion status of subdivision improvements.~~

32-2181.03. Lot reservations

D. THE AUTHORITY TO TAKE LOT RESERVATIONS UNDER THIS SECTION SHALL EXPIRE SIX MONTHS FROM THE DATE THE COMMISSIONER RECEIVES NOTICE OF THE INTENT TO TAKE LOT RESERVATIONS FROM A DEVELOPER.

32-2183. Subdivision public reports; PUBLIC REPORT EXPIRATION; PUBLIC REPORT RENEWAL; denial of issuance; unlawful sales; classification; voidable sale or lease; order prohibiting sale or lease; investigations; hearings; summary orders

F. No subdivider shall sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee OR THE USE OF AN EXPIRED PUBLIC REPORT shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

M. ALL PUBLIC REPORTS, INCLUDING AMENDED PUBLIC REPORTS, ISSUED FROM THE EFFECTIVE DATE OF THIS PROVISION EXPIRE ONE YEAR FROM THE DATE OF ISSUANCE UNLESS RENEWED PRIOR TO EXPIRATION. ALL EXISTING PUBLIC REPORTS EXPIRE ONE YEAR FROM THE EFFECTIVE DATE OF THIS PROVISION. PUBLIC REPORT RENEWALS SHALL BE MADE ON A FORM PROVIDED BY THE COMMISSIONER AND ACCOMPANIED BY A FEE OF \$250.00.

## Rule changes would provide program for disabled students

The Department is proposing many changes and additions to rules which affect real estate schools and their students. The entire text of the proposed changes may be found on the Department's web site. The address is [www.re.state.az.us/toc/html](http://www.re.state.az.us/toc/html).

Many of the changes are of interest only to school administrators, but several affect licensees and pre-licensure students. Here are some highlights:

### Disability Program

A licensee unable to travel to, participate in, or complete pre-license or continuing education courses presented in a classroom setting due to a physical condition may request enrollment in the disability program.

Upon enrollment, the licensee shall listen to audio tape recordings or watch and listen to audio-video tapes, which may include hand-outs and a workbook, or may complete correspondence courses. The licensee shall take through handwritten or typewritten notes, or orally record notes of the course to demonstrate an understanding of the material. Other changes include:

### Prelicensure Education

Broker pre-license education shall be in addition to, more detailed and of a broader scope than the salesperson's pre-license education. The broker's and salesperson's pre-licenses courses shall be held separately and the classes shall not be held jointly.

### Fair Housing Course Substitute

A real estate renewal applicant who is engaged exclusively in a specialty in which fair housing is not an issue, such as farm and ranch sales, business brokerage, or commercial sales/leasing, may substitute a course for the mandatory Fair Housing course when all of the following apply:

- The licensee's business is exclusively in a specialty field in which fair housing does not apply.

- The substitute course proposed is more applicable to the licensee's real estate activities.

- The licensee provides proof or has previously provided proof of attendance at a Department-approved fair housing course.

## Proposal would streamline recovery fund statutes

In response to the Auditor General's findings concerning the administration of the Recovery Fund, the Department proposes to eliminate much of the time spent on cases that may never result in an application to the Fund for payment.

In addition, the changes would allow the Department to determine whether payment from the fund is appropriate rather than requiring a claimant to go to court and ask a judge to make the determination.

Proposed changes to the recovery fund statutes comprise 15 pages, too lengthy to publish here. You may view the changes on the Department's web site at [www.re.state.az.us](http://www.re.state.az.us) and click on the Table of Contents button.

# ARIZONA

## REAL ESTATE BULLETIN

Arizona Department of Real Estate  
2910 N 44th Street, Phoenix AZ 85018-7256